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VIA FACSIMILE: (703) 305-3597

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February 19, 2004

Gregory J. Strimbu, Examiner  
Commissioner For Patents  
P.O. Box 1450  
Alexandria Virginia 22313-1450

Re: Invention Name: CONSTRUCTION LAYOUT STRIPPING  
Application Number: 09/940,208  
Inventor: Richard M. Winchester

Dear Mr. Strimbu:

This letter follows on a telephone message I left with you on February 18, 2004. Pursuant to our last conversation, you were going to obtain a copy of the file, which had pursued some other location within the USPTO so that we could discuss this matter intelligently.

You had sent to me, on December 23, 2003, an Advisory Action letting me know that the reply filed on November 21, 2003, was not entered because, under your analysis, it was not proper under 37 CFR 1.113. You noted that the proposed amendments "raised new issues that would require further consideration and/or search and/or that they were not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal." You noted that the Affidavit had been considered but did not place the application in condition for allowance because it only overcame Lafrance, and did not address the 112 rejections or the rejections based on Salato.

Subsequently, on December 31, 2003, just eight days after the first office action, you mailed me a Notice of Abandonment consistent with your statements in the Advisory Action. If you had simply advised me by telephone or email of your intent to file the Notice of Abandonment, I could have filed a request for continuing examination or filed a continuation in part application. Your failure to do this has grievously damaged my client's interests. Clearly we did not intend to abandon the application. We have prosecuted it continuously for several years, and have an extremely high interest in continuing the prosecution successfully.

**EDWARD L. WHITE, P.C.**  
*Attorney at Law*

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After several prior art searches by you, the only **PRIOR ART** reference you identified which put into question the novelty or obviousness of my client's invention was Salato. Salato only affected a limited number of claims (i.e., claims 1 and 6). The claims not affected by Salato are proper for allowance, and based on the current status of the application should be allowed. Instead of that happening, you have found that the application is abandoned.

Please call me at your earliest convenience to discuss this critical matter. Your prompt attention to it is greatly appreciated.

Sincerely,



Edward L. White  
*For the Firm*

ELW:jri

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Re: Application No.: 09/940,208 First Named Inventor: Richard M. Winchester Art Unit: 3634		
Date: February 19, 2004		
Pgs: 2 (including this page)		

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